

Appl. No. 10/761,949
Amdt. dated September 9, 2005
Reply to Office Action of June 15, 2005

Amendments to the Drawings:

The attached sheet of drawings includes changes to Figure 4. This sheet, which includes Figure 4, replaces the original sheet including Figure 4.

Attachment: Replacement Sheet

REMARKS/ARGUMENTS

Claims 1-18 are pending in the present application. In the Office Action mailed June 15, 2005, the Examiner rejected claims 1-2, 4-6, 10-11, and 13-15 under 35 U.S.C. § 103. At the same time, claims 7-9 and 16-18 were allowed by the Examiner. Further, as part of the Office Action, the Examiner indicated that claims 3 and 12 contained allowable subject matter and would be allowed if rewritten in independent form.

By the present paper, Applicants have amended the drawings, the specification, as well as claims 1, 3, 10, and 12. In light of these changes and the following remarks, reconsideration and allowance of the present claims is respectfully requested.

I. Drawings

The drawings have been amended to address the Examiner's objections to the drawings. Specifically, Figure 4 has been amended to show "graphical code 10" rather than "graphical code 410." Applicants assert that, in light of this change, the drawings comply with 37 C.F.R. 1.84. Withdrawal of the drawing objection is respectfully requested.

II. Specification

The specification, and more particularly the abstract of the disclosure section, has been amended to address the Examiner's objections to the specification. This is a non-limiting amendment and does not affect the scope of the present application in any way. Based upon this amendment, Applicants submit that the present specification is proper. Withdrawal of the present objection to the specification is respectfully requested.

III. Allowable Claims 3 and 12

In the Office Action, the Examiner stated that claims 3 and 12 contained allowable subject matter and would be allowed if rewritten in independent form. *See* Office Action p. 6. Such re-

writing of claims 3 and 12 has been done in this paper. Accordingly, immediate allowance of these claims is respectfully requested.

IV. Objection to Claims 1, 7, and 16

The Examiner objected to claims 1, 7, and 16 and requested that the Applicant “correct[]” these claims to “ensure that the claims are clearly either apparatus, system, or method claims.” Office Action, p. 3. This objection is respectfully traversed.

Applicants believe that no “correction” is required or appropriate. Specifically, claims 1 and 7 clearly refer to an apparatus claim—*i.e.*, a claim for a “graphical code reader.” This graphical code reader includes a processor and a memory which stores instructions that are “executable by the processor to implement a method....” In other words, the processor will execute the instructions to implement the method outlined in the claim. Applicants submit that this claim language is common in the computer-related arts and is completely appropriate.

Likewise, with respect to claim 16, this claim clearly recites method steps that are implemented “[i]n a graphical code reader.” However, in order to give context to this method claim, the Applicants have placed words in the preamble that describe the graphical code reader that implements the method. Again, Applicants submit that this type of claim is completely appropriate and clear to those of skill in the art.

Accordingly, Applicants submit the structure and words used in claims 1, 7, and 16 is appropriate and that this claim objection should be withdrawn. If the Examiner still believes that this claim objection is appropriate, Applicants respectfully request that the Examiner provide the Applicants with a statute or MPEP section upon which the claim objection is based. That way, Applicants will more fully understand the nature of this objection and will understand how they can best address the Examiner’s concerns.

V. Rejection of Claims 1-2, 4-6, 10-11, and 13-15 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 1-2, 4-6, 10-11, and 13-15 under 35 U.S.C. § 103(a) based on U.S. Patent No. 6,072,852 to Seo (hereinafter "Seo") in view of U.S. Patent No. 4,816,659 to Bianco *et al.* (hereinafter "Bianco"). This rejection is respectfully traversed.

The M.P.E.P. states that

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

M.P.E.P. § 2142.

Applicants respectfully assert that the present claims are patentably distinct from the cited art as these references do not teach or suggest all of the limitations found in the present claims. Specifically, as a result of this paper, independent claims 1 and 10 have been amended to recite that "the graphical code reader is configured such that the user can set the infrared illumination intensity level and the red illumination intensity level." Support for this limitation is found throughout Applicants' specification including, for example, paragraphs 34 and 35. As explained by Applicants' specification, this limitation relates to the user's ability to set and control the both the red illumination intensity level and the IR illumination intensity level for each particular use or application. *See* Applicants' specification, ¶¶ 34-35.

In typical operation, if the user knows that the graphical codes 210 that are being read are printed with inks that reflect IR illumination, the user may set the red illumination intensity level higher than the IR illumination intensity level. The IR illumination intensity level may be set to zero (i.e., all of the IR LEDs 104a may be turned off). In contrast, if the user knows that the graphical codes 210 that are being read are printed with inks that absorb IR illumination, the user may set the IR illumination intensity level higher than the red illumination intensity level.

Applicants' specification, ¶ 35.

Such a limitation, however, is not taught by either of the cited references. Bianco fails to have any teaching or suggestion regarding the ability of the user to set either the IR illumination intensity level or the red illumination intensity level. Moreover, contrary to the Examiner's assertions, Seo also fails to teach or suggest this limitation. Specifically, the Examiner states that

Seo teaches that the method comprises detecting user inputs and utilizing this input to set illumination levels when it is taught that the *user utilizes the trigger 14 on the reader* (see Figure 1, col 7, lines 53-65).

Office Action, p. 5 (emphasis added).¹ From this assertion, the Examiner is apparently stating that the user may set the illumination of the device via the "trigger switch 14." Applicants believe that

¹ The cited portion of Seo—i.e., Col. 7, lines 53-65—recites as follows:

As mentioned above, upon turning the trigger switch 14 ON the reading operation starts, so that the CCD 43 generates image signals to output the same to the signal processing circuit 5. In the signal processing circuit 5 a predetermined signal processing operation is performed. The image signals processed by the signal processing circuit 5 are converted to image data, and this image data is input to a host computer 17 through the data communication driver 16. The host computer 17 is, for instance, a personal computer or a workstation which is provided separately from the data symbol reader 1 and to which the data communication driver 16 is connected. The host computer 17 stores the data input from the data symbol reader 1,

this assertion is incorrect. Seo's system teaches the use of a trigger switch 14 as a means of activating—*i.e.*, turning the device on. *See* Seo, Col. 7, lines 53-54 (“As mentioned above, upon turning the trigger switch 14 ON the reading operation starts...”). As explained by Seo, this trigger switch 14 may be either “half-depressed” or “fully depressed” by the user:

...In response to the trigger switch 14 being half-depressed, the controller 15 controls the light emitter drive circuit 42 to start the light emitter 41 emitting light. The controller 15 controls the light emitter drive circuit 42 such that the light emitter 41 keeps emitting light as long as the trigger switch 14 is held half-depressed, and the controller 15 controls the light emitter drive circuit 42 to stop the light emitter 41 emitting light when the trigger switch 14 recovers its free state (non-depressed state).

When the trigger switch 14 is fully depressed, the controller 15 controls the light emitter drive circuit 42 to continue the light emitter 41 emitting light, and at the same time the controller 15 controls the CCD drive circuit 6 to start operating. The CCD drive circuit 6 outputs CCD horizontal drive pulses and CCD vertical drive pulses to control the accumulation and forwarding operations performed in the CCD 43.

Seo Col. 8, lines 1-19.

Applicants submit that such teachings regarding Seo's trigger switch 14 indicates only that this trigger switch functions to illuminate the LEDs (when it is half-depressed) and signal the controller to turn on the CCD (when it is fully depressed). Applicants can find no teaching or suggestion in Seo which shows how or why this trigger switch 14 (or any other structure in Seo) allows the *user to set or control the infrared illumination intensity level and the red illumination intensity level*, as is required by the present claims. In fact, Applicants cannot find any teaching in

decodes the same, totals the decoded data, or carries out other operations when necessary.

Col. 7, lines 53-65.

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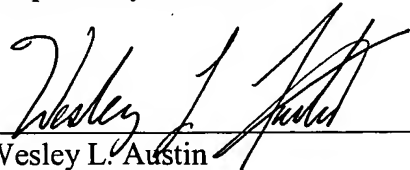
Seo which shows that the trigger switch 14 affects or controls the illumination intensity of the lighted LEDs in any way. Thus, Applicants believe that the Examiner has not met her burden in establishing *prima facie* obviousness—*i.e.*, in establishing that Seo (or the other cited references) teaches a system in which the reading device that is “configured such that the user can set the infrared illumination intensity level and the red illumination intensity level” as is explicitly required by independent claims 1 and 10. Accordingly, withdrawal of this rejection is respectfully requested.

With respect to claims 2 and 4-6, these claims depend from independent claim 1. Likewise, claims 11 and 13-15 depend from independent claim 10. Accordingly, Applicants respectfully request that the rejection of dependent claims 2, 4-6, 11, and 13-15 be withdrawn for at least the same reasons as those presented above in connection with independent claims 1 and 10.

VI. Conclusion

In view of the foregoing, Applicants respectfully assert that all of the claims pending in the present application are allowable. Applicants request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,



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